



**Republic v Odhiambo alias Boyi (Criminal Case E080 of 2023)
[2026] KEHC 5516 (KLR) (Crim) (30 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 5516 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL
CRIMINAL CASE E080 OF 2023**

K KIMONDO, J

APRIL 30, 2026

BETWEEN

REPUBLIC PROSECUTOR

AND

FIDEL BENTO ODHIAMBO ALIAS BOYI ACCUSED

RULING

1. The accused is charged with murder contrary to section 203 as read with section 204 of the Penal Code.
2. The Director of Public Prosecutions informs the High Court that on the 10th September 2023 at Mowlem area in Buruburu Sub-County within Nairobi County, with others not before the court, murdered Sam Omondi (hereafter the deceased).
3. The prosecution presented six witnesses. I am now called upon to determine whether there is sufficient evidence that calls for a rebuttal from the accused.
4. The republic lodged submissions dated 17th February 2026 while those by the accused are dated 3rd December 2025.
5. According to the learned counsel for the defence, Ms. E. B. Nyamongo, the alleged incident occurred at night and there was no positive identification of the accused or a police parade. She also assailed the evidence as disjointed, conflicting and unreliable. Lastly, she submitted that the deceased, who was drunk, was “the author of his own misfortune having started the altercation that provoked” the accused or his assailants.
6. But according to the learned Principal Prosecution Counsel, Ms. M. M. Kigira, there is direct and strong circumstantial evidence linking the accused to the murder. She relied on Republic v Andrew



Omwenga [2009] eKLR, Bhatt v Republic [1957] E.A. 332 and Nyaga Kiura v Republic [2018] eKLR among others.

7. The key evidence went as follows: The deceased and Eunice Nzula Mutua (PW1) were living together as husband and wife. On the night of 9th September 2023 the couple and a number of their friends drank at a club at G7, Umoja 3 until 11:00 p.m. They were all drunk and walked to a birthday party for Dante (Duncan Mwangi Kamuriu [PW2]) at Sector area.

8. On their way back to G7, they were confronted by 5 or 6 boys who included Boyi (accused). She knew him as a garbage collector. When the accused tried to shake her hand, the deceased asked him: “unataka kumsalimia kama nani?” When he touched her shoulder, it infuriated the deceased and a quarrel ensued. She added as follows-

The other boys picked up stones. Deceased also picked up stones. Deceased slapped me and told me “hii ni mambo ya wanaume kaa kando.” Deceased and the boys crossed the road and went to an area called Supa Loaf. A fight ensued by throwing stones. Deceased threw stones at them.

At some point, one of the boys had told the girls to show their breasts. That annoyed the deceased completely. The deceased said “kama nyinyi ni wanaume, kuja tupigane kwa mikono.” Deceased put down his stones. They started beating him with stones. We, the girls were a distance away. I saw Eric (deceased) fall. I saw one boy take away his phone...I then went to where Eric fell. The deceased was bleeding at the back of the neck.

9. The deceased succumbed to his injuries on 25th September 2023. When PW1 reported the matter to SGT Casper Ratemo Ogero (PW3) at Dandora Police Station on that date, she was detained as a suspect. But following further investigations, PW3 recommended to the DPP that the accused be charged for murder.

10. The accused was arrested by IP David Mwireri (PW5) on 21st October 2023 following a tip-off by an unnamed informer. He was aboard a matatu heading towards Kwa Maji area. When the vehicle was flagged down, the accused ran off but PW5 gave chase on a bodaboda and caught up with him.

11. James Otieno Ochola (PW6) is a brother of the deceased. On 10th September 2023, he paid a visit to the deceased at Medipharm Hospital. The doctor informed him that he was paralyzed waist down and advised the family to transfer him to Kenyatta National Hospital where he died on 25th September 2023.

12. On 26th September 2023, PW6 identified the body for postmortem purposes. The autopsy was carried out by Dr. Bernard Midia (PW4) who concluded that death resulted from “spinal injury due to puncture wound to the neck”.

13. It bears repeating that the accused is still deemed innocent at this stage. Furthermore, the inquiry at this juncture is merely to establish if a prima facie case has been made out requiring a rebuttal from the accused.

14. Upon appraisal of that evidence; and, well guided by Bhatt v Republic [1957] E.A. 332 and R v Kipkering arap Koske & another 16 EACA 135 (1949), I find that the prosecution has established a prima facie case.

15. Accordingly, under the provisions of section 306 (2) of the Criminal Procedure Code, I hereby place the accused person on his defence.

It is so ordered.



DATED, SIGNED AND DELIVERED AT NAIROBI THIS 30TH DAY OF APRIL 2026.

KANYI KIMONDO

JUDGE

Ruling read virtually on Microsoft Teams in the presence of-

Accused.

Ms. P. Maina holding brief for Ms. Kigira for the republic instructed by the Office of the Director of Public Prosecutions.

Mr. E. Ombuna, Court Assistant.

